

Amendment Dated: December 29, 2006
Response to Official Action Dated: November 30, 2006
US Serial No. 10/565,892

traversal is based on several points. First of all, this application is based on an International Application in which the International Searching Authority, the European Patent Office determined that the claims to the present composite article and the method of making a composite article did not lack unity of invention (see enclosed copy of the Written Opinion of the International Searching Authority included with the filing of this application). Truly, a product and a process especially adapted for the manufacture of such product is the first of many categories considered acceptable as the type of invention having unity of invention (37 C.F.R. 1.475). Thus, Applicants submit that this issue has already been resolved by the EPO in the International Search Report. On this point, the Examiner is directed to section 1850 of the MPEP where it states “from the preceding paragraphs it is clear that the decision with respect to unity of the invention rests with the International Searching Authority or the International Preliminary Examination Authority”. MPEP page 1800-95.

While the Examiner has the authority to request restriction in spite of the IPER under 37 C.F.R.1.499, in this case the Examiner has alleged that Groups I and II do not relate to a single general inventive concept. Applicants specifically traverse because claim 1 recites a composite article having an upper member of plastics material in the lower member of plastics material that together form an outer shell, and an inner core of filler within said shell. Method claim 58 recites a method of manufacturing a composite article comprising the steps

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of providing a flowable filler material between upper and lower members that define a cavity filled with said flowable material, and hardening said filler material to form a solid inner core in case by said members. Thus, Applicants respectfully submit that claims 41 and 58 do in fact relate to a single general inventive concept, that being providing a pair or upper members forming an outer shell and filling an inner core with filler material.

Next, the Examiner basis his restriction on a perceived anticipation by US 6,571,406 to Gerloff. Gerloff is relevant only for disclosing a shower tub, which is the general form of the product disclosed in the present application. However, even if the issue of perceived anticipation is appropriate here in the context of a restriction requirement (which Applicants traverse in that restriction is to be conducted separate of the merits of the application), Gerloff clearly fails to disclose claim elements cited above in claims 41 and 58. Instead, Gerloff discloses a supporting body of a shower tub made of stone or tile. See FIGs. 1 and 2. A frame surrounds a solid non-flowable landing on top and sides. There is no shell formed by Gerloff. Thus, there is no structure or procedure disclosed in Gerloff which anticipates the claimed invention.

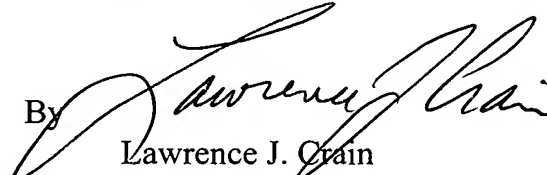
For all the above reasons, Applicants respectfully traverse the Restriction Requirement. The Examiner indicates that on October 27, 2006 a telephone call was made to the undersigned in an attempt to resolve the above restriction, the undersigned respectfully

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submits that no telephone message or voicemail was received on that date. However, should the Examiner find that there are issues remaining in this response which may be resolved by telephone conference, he is certainly invited to contact the undersigned at the telephone number listed below during normal business hours 9:00 a.m. to 5:00 p.m. central standard time. The undersigned's direct number is (312) 987-4002. This number is equipped with voice mail.

Respectfully submitted,

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By 
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/003214

International filing date (day/month/year)
26.07.2004

Priority date (day/month/year)
25.07.2003

International Patent Classification (IPC) or both national classification and IPC
A47K3/40

Applicant
KOHLER MIRA LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

25.05.05
ITEM
DIARIED

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/003214

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-40
Inventive step (IS)	Yes: Claims	
	No: Claims	1-40
Industrial applicability (IA)	Yes: Claims	1-40
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1. The following documents are referred to in this communication:

D1 : DE 197 46 944 A (HUBER MAXIMILIAN) 29 July 1999 (1999-07-29)
D2 : DE 86 10 935 U (FLACHGLAS AG) 26 June 1986 (1986-06-26)
D3: US 2002/041954 A1 (HENRICHS PAUL ET AL) 11 April 2002 (2002-04-11)
D4: DATABASE WPI Section Ch, Week 199415 Derwent Publications Ltd.,
London, GB; Class A18, AN 1994-124175 XP002300207 -& JP 06 073243 A
(TONEN SEKIYU KAGAKU KK) 15 March 1994 (1994-03-15)
D5: DATABASE WPI Section Ch, Week 199705 Derwent Publications Ltd.,
London, GB; Class A25, AN 1997-047041 XP002300208 -& JP 08 300375 A
(KANTO JIDOSHA KOGYO KK) 19 November 1996 (1996-11-19)

2. INDEPENDENT CLAIMS 1 AND 26

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D1 discloses (see the corresponding passages cited in the search report):

a composite article (cf. fig. 1) having an upper member (1) of plastics material and a lower member (3) of plastics material that together form an outer shell, and an inner core of filler (7) within the shell.

Therefore, the subject-matter of claim 1 is known from D1.

- 2.2 Since the features of the subject-matter of method claim 26 are corresponding to the features of the product as defined in claim 1, this claim neither fulfills the requirements of Article 33(1) PCT.
- 2.3 Besides, the subject-matter of claim 1 and claim 26 is also known from D2, see the corresponding passages cited in the search report.

3. DEPENDENT CLAIMS 2-25, 27-40

Dependent claims 2-25, 27-40 do not contain any features which, in combination

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

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with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see documents D1-D5 and the corresponding passages cited in the search report.